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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,116	02/26/2002	Roy Neff	4159-4005US1	2253
27123	7590	02/14/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			AGWUMEZIE, CHARLES C	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/086,116	NEFF ET AL.	
	Examiner	Art Unit	
	Charlie C. Agwumezie	3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/4/02; 01/13/03</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### Status of claims

1. Claims 27-135 are cancelled. Claims 1-26 are pending in this application per the response to office action filed on December 07, 2005.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-26**, are rejected under 35 U.S.C. 102(e) as being anticipated by

Nieboer et al U.S. Patent No. 6,418,419 B1.

3. As per **claims 1, 7, 13 and 14**, Nieboer et al discloses a method operable on a computer for responding to a barter order, the barter order including a first security to be sold in a barter and a second security to be purchased in the barter, the method comprising the steps of:

receiving a rule including at least one condition for automatically responding to the barter order (col. 2, lines 12-18; col. 3, lines 60-67);

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comparing on the computer the barter order to the at least one condition comprising the rule (col. 2, lines 12-18); and

automatically responding to the barter order in accordance with the at least one condition of the rule (col. 2, lines 12-18; see abstract).

4. As per **claim 2, 8 and 16**, Nieboer et al further discloses a method wherein:  
at least one of the first security or the second security includes a quantity thereof (col. 8, lines 29-54; col. 17, lines 25-67); and  
the barter order further including an effective time range (col. 2, lines 1-5; col. 15, lines 50-65).

5. As per **claim 3, 9, 18 and 23**, Nieboer et al further discloses a method wherein the at least one condition includes at least one variable selected from the group of variables including: the identity of one or more of the first and second securities, the delta between the buy and sell prices of the first and second securities, the relationship of the SIC codes of the first or second securities or any other securities, the market cap of the first or second securities, the average daily volume traded of the first or second securities and the debit value of the bid/ask spread of the first and second securities (col. 1, lines 42-65; col. 9, line 1 – col. 10, line 12).

6. As per **claim 4 and 10**, Nieboer et al further discloses a method wherein each of the conditions further includes a mathematical operator and a value (col. 15, lines 1-10).

7. As per **claim 5 and 11**, Nieboer et al further discloses a method wherein:

each of the rules further includes at least one pricing tier comprising an offer price range within which a rule is operative and an offer size value up to which a rule is operative (col. 8, lines 27-54); and

if the rule is operative and if the at least one condition of the rule is satisfied, then further comprising the steps of: if the barter offer is a limit order, performing one of the steps of trading the first and second securities (see fig. 8; col. 10, line 11-65), and

posting the barter offer for consideration for execution; if the barter offer is a market order, trading the first and second securities; and if a contra barter offer is accepted, trading the first and second securities (see fig. 8; col. 10, lines 11-65).

8. As per **claim 6 and 12**, Nieboer et al further discloses a method wherein the step of automatically responding includes prompting the operator to provide a manual response (col. 13, lines 1-40).

9. As per **claims 15, 20, 25 and 26**, Nieboer et al discloses a method operable on a computer for establishing rules to respond to a barter order, the barter order including a first security to be sold in a barter and a second security to be purchased in the barter, the method comprising the steps of:

storing on said computer a plurality of variables and a plurality of operators (col. 2, lines 36-55);

receiving through a graphical user interface input from a user selecting from the plurality of variables and operators to form at least one condition (see col. 17, table 1; col. 15, lines 1-45); and

responsive to the input, selecting the at least one condition to form a rule for automatically responding to the barter order (see col. 17, table 1; col. 15, lines 1-45).

10. As per claim 17 and 22, Nieboer et al further discloses a method wherein the input from the user includes selecting at least one variable from the plurality of variables, at least one operator from the plurality of operators and at least one constraint to form the at least one condition (see col. 17, table 1; col. 15, lines 1-45).

11. As per claims 19 and 24, Nieboer et al further discloses a method wherein the rule further includes at least one pricing tier comprising an offer price range within which a rule is operative and an offer size value up to which a rule is operative (col. 11, lines 40-60).

12. As per claim 21, Nieboer et al further discloses a system wherein: at least one of the first security and the second security includes a quantity thereof (col. 8, lines 29-54; col. 17, lines 25-67); and  
the barter order further including an time date range (col. 2, lines 1-5; col. 15, lines 50-65).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference cited to Buist U.S. Patent 6,408,282 is a document considered relevant to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on **(571) 272 – 6712**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington D.C. 20231**

Or faxed to:

**(571) 273-8300**. [Official communications; including After Final communications labeled "Box AF"].

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**(571) 273-8300.** [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"].

Hand delivered responses should be brought to the United States Patent and  
Trademark Office Customer Service Window:

**Randolph Building,  
401 Dulany Street  
Alexandria VA. 22314**

Charlie Lion Agwumezie  
Patent Examiner  
Art Unit 3621  
February 7, 2006



**FIRMIN BACKER  
PRIMARY EXAMINER**